

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 2445 - HB 2617

March 5, 2018

SUMMARY OF BILL: Imposes a five percent tax on gross receipts received by businesses which manufacture or produce and sell opioids within this state, or any person importing or causing to be imported any opioid into this state from outside the state and selling such opioid within this state. Prohibits the tax imposed by this legislation from being passed on to the retail customer. For the purposes of this legislation, establishes that "opioid" does not include any prescription drug used exclusively for the treatment of opioid addiction.

ESTIMATED FISCAL IMPACT:

Increase State Revenue - \$16,605,300

Increase State Expenditures – \$118,100

Increase Federal Expenditures - \$227,700

Assumptions:

- An effective date of July 1, 2018.
- Despite the legislation prohibiting the tax being passed onto the customer, it is reasonable to assume that the businesses which manufacture or produce and sell opioids will raise the price of the drug to cover this tax, as an increase in price could be attributed to numerous reasons other than the tax proposed by this legislation.
- Based on information provided by the Division of TennCare (the Division), an estimated 1.0 percent increase in payments made by the Division to pharmacies for opioid prescriptions.
- Based on information provided by the Division, the total amount paid for opioid prescriptions for TennCare enrollees was \$34,576,700 in FY16-17.
- A one percent increase in total cost will result in a recurring increase in expenditures for the Division of \$345,767 ($\$34,576,700 \times 1.0\%$).
- This amount will be expended at a state rate of approximately 34.142 percent and will receive federal matching funds at a rate estimated to be 65.858 percent. The recurring increase in state expenditures is estimated to be \$118,052 ($\$345,767 \times 34.142\%$) and the recurring increase in federal expenditures is estimated to be \$227,715 ($\$345,767 \times 65.858\%$).

- Based on information provided by the Department of Finance and Administration, Division of Benefits Administration (BA), its PBM provided that members covered under state and local plans were dispensed 9,847,587 opioid pills in FY16-17.
- The total cost increase to the PBM as a result of this legislation is unknown.
- Based on information provided by BA, any increase in costs experienced by the PBM will not be passed on to BA.
- According to the Centers for Disease Control and Prevention 2017 report (*Annual Surveillance Report of Drug-Related Risks and Outcomes*), there were 107.5 opioid prescriptions per 100 persons in Tennessee in 2016.
- According to the United States Bureau of the Census, Tennessee's population as of July 1, 2017, is estimated to be 6,715,984.
- There are approximately 7,219,683 $[(107.5 \times 6,715,984) / 100]$ opioid prescriptions provided to Tennesseans annually.
- This legislation exempts such tax from sales of opioids used for the treatment of opioid addiction.
- Based on information from goodrx.com, approximately 8 percent of opioid prescriptions are used for opioid addiction. Such prescriptions are exempt from the proposed legislation.
- There are approximately 6,642,108 opioid prescriptions $(7,219,683 \times 92\%)$ prescribed for non-treatment of opioid addiction to which this tax would apply.
- Based on information provided by the Department of Revenue, and based on data from TennCare on how much they reimbursed pharmacies for opioid prescriptions, and other drug pricing data, the average price per prescription sold to a pharmacy is estimated to be at \$50.
- Total taxable gross receipts for opioid prescriptions of \$332,105,400 $(6,642,108 \times \$50)$. The recurring increase in revenue is estimated to be \$16,605,270 $(\$332,105,400 \times 5\%)$. It is assumed that 100 percent of this revenue will be deposited into the General Fund.
- Any increase in state expenditures to the Department of Revenue to ensure compliance with this Act will be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/jdb